

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Norfolk Division**

LEON PARRISH MARSHALL, #220800,

Petitioner,

v.

ACTION NO. 2:06cv515

GENE M. JOHNSON,
Director of the Virginia Department of Corrections,

Respondent.

FINAL ORDER

This matter was initiated by petition for a writ of habeas corpus under 28 U.S.C. § 2254. The petition alleges violation of federal rights pertaining to petitioner's convictions on June 4, 2001, in the Lunenburg County Circuit Court for rape and two counts of sexual battery, as a result of which he was sentenced to serve a total of fifteen years in the Virginia penal system.

The matter was referred to a United States Magistrate Judge pursuant to the provisions of 28 U.S.C. § 636(b)(1)(B) and (C) and Rule 72 of the Rules of the United States District Court for the Eastern District of Virginia for report and recommendation. Report of the Magistrate Judge was filed on May 29, 2007, recommending dismissal of the petition. By copy of the report, each party was advised of his right to file written objections to the findings and recommendations made by the Magistrate Judge. On June 11, 2007,

the Court received Petitioner's objections to the Report and Recommendation.

The Court, having reviewed the record and examined the objections filed by the petitioner to the United States Magistrate Judge's Report, and having made de novo findings with respect to the portions objected to, does hereby adopt and approve the findings and recommendations set forth in the Report of the United States Magistrate Judge filed May 29, 2007. Marshall's petition is DENIED because the claims made in Grounds (a) through (c) were procedurally barred from review in the state courts and thus, may not now be considered in this federal Court. It is, therefore, ORDERED that the petition be DENIED and DISMISSED. It is further ORDERED that judgment be entered in favor of the respondent.

Petitioner has failed to demonstrate "a substantial showing of the denial of a constitutional right," therefore, the Court declines to issue any certificate of appealability pursuant to Rule 22(b) of the Federal Rules of Appellate Procedure. See Miller-El v. Cockrell, 123 S.Ct. 1029, 1039 (2003).

Petitioner is hereby notified that he may appeal from the judgment entered pursuant to this Final Order by filing a written notice of appeal with the Clerk of this court, United States Courthouse, 600 Granby Street, Norfolk, Virginia 23510, within 30 days from the date of entry of such judgment.

The Clerk shall mail a copy of this Final Order to all counsel of record.

/s/

Rebecca Beach Smith
UNITED STATES DISTRICT JUDGE

Norfolk, Virginia

July 10, 2007